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PACIFIC TELESIS
Group-Washington

March 25, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Dear Mr. Caton:

Re: *CC Docket No. 96-21, Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services*

On behalf of Pacific Telesis Group, please find enclosed an original and six copies of its *"Reply Comments"* in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Alan F. Ciamporcero

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OFFICE OF SECRETARY

In the Matter of Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services	CC Docket No. 96-21

REPLY COMMENTS OF PACIFIC TELESIS GROUP

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Summary

The BOCs' affiliates will not be dominant in the provision of any interstate, interLATA services. As a matter of law, the Competitive Carrier decisions, which entitle the separate interLATA affiliates of exchange telephone carriers to nondominant treatment, apply to "independents *and* the Bell Operating Companies." Dominant treatment would also be inconsistent with the 1996 amendments to the Communications Act. This is particularly true of out-of-region interLATA services, for which Congress did not feel compelled to establish any structural safeguards or any approval process. The constraints imposed by the 1996 amendments and the Commission's decisions are significant, but they do not include dominant regulation of any services provided through separate affiliates.

The BOCs' affiliates will also be nondominant as a matter of fact. The 1996 Amendments require local exchange competition *before* the in-region interLATA market is opened up to the BOCs. The amendments also require that in-region interLATA services be provided through a separate affiliate subject to numerous specific safeguards, including but not limited to strict provisos on joint marketing, transactions with the affiliated BOC (including the provision of exchange access and customer and proprietary information), requirements of separate books, separate officers, directors, and employees, and separate credit. Our IXC competitors fail to mention any of these safeguards -- notwithstanding that they urged them to Congress.

It is doubtful that any new safeguards would pass muster under Executive Order 12866. That order, which President Clinton said repudiated the old approach of "if it moves, regulate it," requires independent agencies before adopting new rules to identify the

objective of regulation; consider the alternative of not regulating; determine whether a rule is the best available method of achieving its objective; assess both the costs and benefits of the intended rule; design the rule in the most cost-effective manner to achieve the regulatory objective; and tailor the rule to impose the least burden on society. Though it is not binding on the Commission, we urge the Commission to consider this approach. The probable cost to consumers of dominant regulation or other "stringent safeguards" would rule out any possibility of their meeting the cost-benefit, "least burden" justification that Executive Order 12866 requires.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services	CC Docket No. 96-21

REPLY COMMENTS OF PACIFIC TELESIS GROUP

Pacific Telesis Group ("PTG") hereby respectfully replies to comments filed in the above-captioned proceeding.

As a number of commenting parties point out, the proposed rules effectively require the BOCs to provide out-of-region interLATA services through a separate affiliate. Although Congress clearly did not expect the Commission to require a separate affiliate for out-of-region interLATA, we suggest as a matter of equity that the Commission adopt the proposed rules for all LECs and concentrate on more important issues. When the separate affiliate requirement for in-region interLATA "sunsets,"[1] the requirement should be lifted from all interLATA services and for all LECs.

[1] See 47 U.S.C. Section 272(f).

I. The BOCs' Affiliates Will Not Be Dominant in the Provision of Any Interstate, InterLATA Service

A. The BOCs' InterLATA Affiliates are Nondominant As a Matter of Law

Contrary to what a number of IXC competitors suggest (e.g., AT&T, p. 6, n.12; MCI, pp. 4, 9), the holding of Competitive Carrier applies to all exchange carriers, not just "independent" LECs. In that docket the Commission held that "the domestic, interexchange, interstate services of all carriers affiliated with exchange telephone companies should be regulated as nondominant."[2] The Commission said unambiguously that exchange telephone companies **"include independents and the Bell Operating Companies."**[3]

AT&T and MCI would have the Commission ignore this holding without a "reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored."[4] Nothing would justify treating the interLATA affiliates of some LECs as

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[2] *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor,* 98 F.C.C.2d 1191, para. 6 (1984).

[3] See *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor,* 95 F.C.C.2d 554, para. 5, n.6 (1983).

[4] *Greater Boston Television Corp. v. FCC,* 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied,* 403 U.S. 923 (1971); *California v. FCC,* 39 F.3d 919, 925, 930 (9th Cir. 1994).

nondominant but not others.[5] If AT&T and MCI had their way, Sprint, with an established position in the long distance oligopoly and millions of access lines, would continue to be regulated as *dominant* in the local exchange market and *nondominant* in the interLATA market. PTG, with about the same number of access lines and no interLATA facilities or customers, would be regulated as *dominant* in *both* markets. AT&T and MCI, who are already providing local exchange service (indeed, may do so in combination[6]), would be regulated as *nondominant* in *both* markets. There is nothing "reasoned" about this approach. As Dickens' Mr. Bumble might have observed, it invites the law to be an ass.

We hoped not to have to discuss footnoted *dicta* such as footnote 23 of the *Fifth Report and Order* in Competitive Carrier. But since AT&T and MCI rely on that footnote, we must correct a misimpression they may have left. The footnote does not say that the BOCs' interLATA affiliates would be regulated as dominant. It says that the *BOCs* would be dominant, which is consistent with the holding of Competitive Carrier. Nonetheless, recognizing that structural safeguards might someday be lifted from the BOCs' other deregulated enterprises (as

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[5] MCI tries and fails. It suggests "[e]ach of the [RBOCs] is much larger than the typical independent LEC." The Competitive Carrier rules, however, apply not just to "typical" independent LECs (whatever that may mean) but to mega-independents like GTE and Sprint's Centel affiliates. Despite having 18 million domestic access lines -- about 7 million more than Pacific Bell -- no complaints have ever surfaced that GTE leveraged its exchange "bottleneck" into the interLATA market.

Independent LECs also cover very large geographic areas. PTG does not serve the majority of California's land area. The largest provider of access lines in Nevada is Sprint. Thus when MCI adds, "each RBHC covers such a large service territory, its ability to apply pressure within its region in order to benefit its own out-of-region interexchange services is much greater than any LEC's ability to do so" (MCI, p. 11), it is wrong. Based on MCI's theory, independents ought to have an even greater propensity to leverage their local exchange "bottlenecks" into the out-of-region interLATA market. But the theory itself is obsolete. It was premised on the assumption that BOCs would not provide in-region interLATA. See below, p. 7.

[6] See John J. Keller, "AT&T and MCI Explore Local Alliances," Wall St. J., p. A3, Feb. 12, 1996.

in fact they were), the Commission left for later resolution whether "*any*" degree of separation should be required for the BOCs or their affiliates to qualify as nondominant.[7] The constraints imposed on the BOCs by the 1996 amendments to the Communications Act[8] and Competitive Carrier are significant, but they do not include dominant regulation of any services provided through separate affiliates.

AT&T also says that a "far more efficient use of the Commission's resources would be to consider granting waivers of the dominant carrier rules as necessary to permit appropriate flexibility for BOC out-of-region offerings." (AT&T, p. 7; emphasis in original.) Leaving aside the unconstructive suggestion for the Commission to solicit requests for waiver -- a process that is always slow, cumbersome, contentious, and resource-consuming -- there *are* no "dominant carrier rules" to be waived. In its decision declaring AT&T to be "reclassified" as nondominant, the Commission made clear that just one IXC has ever been dominant in the interstate interexchange market. It observed:

> The fact that we declared AT&T dominant in the rulemaking proceeding that established our generic Competitive Carrier rules does not make that declaration a rule. First, it is not codified in our rules. Second, ... the decision to declare AT&T dominant was an application of the rules and policies adopted in the First Report and Order to a specific entity, AT&T. The declaration of dominance regarding AT&T was an adjudicative decision, not a rule of general applicability.[9]

The holding of Competitive Carrier would have to be overtuned or distinguished before the BOCs' separate affiliates could be adjudicated as dominant in their new interLATA markets. The Commission would also have to apply the same four criteria of market power that were

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7 98 F.C.C. 2d 1191, at n.23 (emphasis added).

8 Pub. L. No. 104-104, 110 Stat. 56 (1996).

9 *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, Order, FCC 95-427 (released October 23, 1995), para. 151.

applied to AT&T, which undoubtedly would indicate that the BOCs' affiliates have no market power. If not those criteria, the *Greater Boston* rule would require the Commission to give a reasoned analysis for why different criteria should apply. Unlike the IXCs, the Commission could not merely point to the BOCs' "bottlenecks" and cite to a fifteen-year-old record. It would have to consider the effect of the 1996 amendments, and explain why the regulations implementing these amendments will be insufficient to prevent the BOCs' affiliates from controlling prices or output in the *interLATA* market.[10]

B. The BOCs' InterLATA Affiliates Will Be Nondominant As A Matter of Fact

If our IXC competitors' arguments for dominant regulation or other extraordinary limitations on the BOCs have a familiar ring, it is because they have been reiterated in countless pleadings to Judge Greene (some of which are even attached to their comments -- see, for example, MCI). These arguments are mooted by the 1996 amendments.

The 1996 amendments require competition in the local exchange *before* the in-region long distance market is opened up to the BOCs. Sections 251-253, in effect, open the networks of incumbent local exchange carriers to competitive interconnection, prohibit and dismantle barriers to entry, and are intended to destroy any market power that incumbent LECs may now have.

If Sections 251-253 are the "belt," Section 271 is the "suspenders." Section 271 requires a BOC to demonstrate that it has met every "checklist" item before the BOC's independently operating affiliate is allowed to provide in-region interLATA. It also requires the Commission to consult with the Department of Justice and state commissions, and to find that the BOC affiliate's entry "is consistent with the public interest, convenience, and necessity,"[11]

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[10] See *id.*, para. 138.

[11] 47 U.S.C. Section 271(d)(3)(C).

eliminating the need for a separate Section 214 application but imposing an important last checkpoint.

Finally, Section 272 requires that in-region interLATA, as well as certain other services, be provided through a separate affiliate subject to specific safeguards. These safeguards are too numerous to be detailed here, but for purposes of the discussion below, we will note they include strict provisos on joint marketing, transactions with the affiliated BOC (including the provision of exchange access and other services), customer and proprietary information, requirements of separate books, separate officers, directors, and employees, and separate credit -- a wish list of requirements for anyone who might be concerned that the interLATA affiliate would not "operate independently from the Bell operating company" or "conduct all transactions with the Bell operating company ... on an arm's length basis."[12]

For out-of-region interLATA, of course, Congress did not see the need for *any* structural separations or approval process. Congress obviously considered the possibility of the BOCs exercising market power over out-of-region interLATA to be too remote for serious consideration. The possibility that our IXC competitors would "recycle" all their old MFJ pleadings by filing them with this Commission seems never to have occurred to them.

II. The Competitive Carrier and 1996 Act Safeguards Will Be Sufficient

The IXCs argue that safeguards "are necessary to guard against misuse of BOC bottlenecks" (AT&T, p. 7). Their arguments are from a bygone era. They fail to acknowledge the new statutory obligations to open the purported "bottlenecks," and the BOCs' subsequent obligations to prove they have met their checklist requirements before they may enter the market for in-region interLATA services. The dire scenarios for "abuse" that our competitors present in

[12] 47 U.S.C. Section 272(b)(1), (5).

their comments to justify additional safeguards are either prohibited by the Act already, or mooted by the 1996 amendments.

For example, AT&T and MCI both argue that "a Bell company has significant incentive and ability to use its bottleneck position ... to impede competition for long distance usage of business customers who have locations both within and outside the BOC's territory and who are offered superior local connections (or threatened with degraded ones) based on their choice of out-of-region interexchange carrier." (AT&T, p. 6; see also MCI, p. 7, and CompTel, p. 3.) Offering discriminatory, "degraded" local connections to competitors would violate too many rules and too many sections of the Act to name (though new Sections 251(c)(3) and 272(c)(1) stand out). And as even Judge Greene had to admit, the strategy makes no sense unless the BOC is offering *only* out-of-region services. (See MCI, *loc. cit.*) The IXCs lifted this argument straight from their oppositions to the motion that Southwestern Bell filed with Judge Greene in 1994 seeking to exempt out-of-region services from the decree -- without acknowledging the enormous, obvious change of circumstances represented by the 1996 Act. BOCs will now seek to offer both in-region *and* out-of-region interLATA.

MCI opposes the Commission's plan to treat the BOCs' separate affiliates under the affiliate transaction rules. It states two reasons (MCI, p. 18):

> First ... the similarity between BOC local exchange and interexchange services makes cost allocations between those two operations more difficult to audit than allocations between BOC regulated and nonregulated services. Second, the proposed approach only addresses cost shifting between the BOC's local exchange operations and its interexchange operations. By treating the interexchange operations as nonregulated, such an approach leaves possible cost shifting between the interexchange operations and the BOC's nonregulated affiliates entirely unguarded.

Neither of these concerns is legitimate. First, the 1996 amendments comprehensively regulate transactions between the BOCs and their affiliates. Among other things, the in-region interLATA affiliates must operate independently; maintain separate books, records, and accounts, have separate officers, directors, and employees; not obtain credit under any arrangement that would allow recourse to the assets of the BOC; conduct all transactions with the BOC on an arm's length basis with such transactions reduced to writing and subject to public inspection. The BOC may not discriminate between its affiliate and any other entity in the provision or procurement of goods, services, facilities, or information, or in the establishment of standards; and must account for all transactions with the affiliate "in accordance with accounting principles designated or approved by the Commission." Every two years, the BOC must obtain and pay for a joint Federal/State audit conducted by an independent auditor.[13] These statutory safeguards, which go farther in many respects than the Commission's current rules, are designed to make it easier, not more difficult, for the Commission to detect any cross-subsidies.

Second, there is no reason not to "leave ... possible cost shifting between the interexchange operations and the BOC's nonregulated affiliates entirely unguarded" (MCI. p. 18). The Commission's affiliate transaction valuation rules have never concerned themselves with transactions between nonregulated affiliates. There is no reason for them to do so. Regulated affiliates or ratepayers are completely unaffected by transactions between nonregulated affiliates.

Referring to its position in CC Docket No. 93-251, MCI also insists on the need for "a 'four-way' cost allocation and affiliate transaction monitoring regime." (MCI, p. 18.) In that docket, MCI argued, among other things, that the valuation rules for asset transfers should

[13] 47 U.S.C. Section 272(b)-(e).

also apply to transfers of services. The Commission rejected this burdensome approach in CC Docket No. 86-111. It observed that "such a valuation standard is fraught with potential for abuse and would be difficult to monitor."[14]

For more detailed responses to MCI's position in Docket 93-251, we refer the Commission to our reply comments in that proceeding.[15] This is the wrong forum in which to amend the affiliate transaction valuation rules -- and a worse time than ever for the Commission to increase the BOCs' regulatory burdens in the way that MCI suggests. By requiring the nonregulated affiliate to be charged at the higher of fully distributed cost or fair market value, the "four-way regime" would help to maintain umbrella pricing in the long distance market, creating a subsidy from our shareowners or our interLATA affiliate's customers to our interLATA competitors. It is hard to imagine anything less "pro-competitive" or "de-regulatory," and thus more inconsistent with the 1996 amendments.[16] Moreover, if the Commission eliminates sharing from the price cap rules,[17] no affiliate transaction valuation rules between exchange carriers subject to price cap regulation and their nonregulated or deregulated affiliates will be needed,

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[14] *In the Matter of Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities; Amendment of Part 31, The Uniform System of Accounts for Class A and B Telephone Companies to Provide for Nonregulated Activities and to Provide for Transactions Between Telephone Companies and Their Affiliates*, 2 FCC Rcd 6283, para. 131 (1987).

[15] *In the Matter of Amendment of Part 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and Their Nonregulated Affiliates*, CC Docket No. 93-251, Reply Comments of Pacific Bell and Nevada Bell, pp. 9-11, January 10, 1994.

[16] H.R. Conf. Rep. No. 458, 104th Cong., 2d Session 1 (1996) ("Conference Report"), p. 1.

[17] *Price Cap Performance Review for Local Exchange Carriers*, 10 FCC Rcd 8961, para. 193 (1995).

since exchange carriers would have nothing to gain by shifting the costs of nonregulated ventures to regulated accounts.[18]

Cable & Wireless (p. 4), CompTel (p. 9), and Excel (p. 6) protest that the BOCs' affiliates could behave anticompetitively through joint marketing of out-of-region interLATA with their exchange telephone company owner. But they ignore the 1996 amendments, which prohibit joint marketing of out-of-region interLATA with exchange service until the Commission grants in-region authority.[19] Thereafter, joint marketing by the BOCs and their affiliates is allowed.[20]

Sprint says that because of our "control over bottleneck facilities, the BOCs have both the incentive and ability to exercise their market power to the determent of competition ... In particular, there is a serious concern that, in the absence of adequate safeguards, a BOC might terminate its in-region IX traffic at access rates lower than those assessed on non-affiliated IXCs." (Sprint, p. 2.) CompTel echoes this contention. (CompTel, p. 10.) But Section 272 now provides that a BOC "shall charge the affiliate described in subsection (a), or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service."[21]

Cable & Wireless (p. 4) says that "the BOC must make any information given to its affiliate available on the same terms and conditions, including price, to other interexchange

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[18] See *National Rural Telecom Ass'n. v. FCC*, 988 F.2d 174, 178 (D.C. Cir. 1993); and *Policy and Rules Concerning Rates for Dominant Carriers*, 4 FCC Rcd 2873, para. 104 (1989).

[19] See 47 U.S.C. Section 272(g)(2).

[20] See 47 U.S.C. Section 272(g)(1).

[21] 47 U.S.C. Section 272(e)(3).

carriers. There is no question that the BOCs obtain unique information by virtue of their position as the monopoly provider of local exchange service. The Commission must ensure that this information is not misused by the BOC to give its affiliate an unfair competitive advantage in the interexchange marketplace." CompTel agrees (CompTel, p. 11). But Section 272(e)(2) already prohibits a BOC from providing "any facilities, services, or information concerning its provision of exchange access to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions."[22] Section 222 also restricts the use of customer information.

It would be easy to give other instances where our competitors apparently failed to read the 1996 amendments to the Act. The point is that the restrictions these amendments impose on the BOCs and their affiliates are both daunting and comprehensive. Congress has already responded to the complaints of all our non-BOC competitors (who will not labor under similar restrictions). At the same time, the 1996 Act was intended to be "de-regulatory." The Commission is "no longer [supposed to] keep trying to fit everything into the old regulatory boxes."[23] If the Act proscribes any particular type of anticompetitive behavior -- and especially if the Act establishes safeguards against it -- the Commission need do nothing except watch and wait. As the Commission recognized long ago when it declared all but one IXC to be nondominant, it maintains a powerful arsenal of weapons to deter and if necessary punish unlawful behavior.[24] The 1996 amendments have only strengthened the Commission's enforcement powers, as well as creating new private causes of action.[25]

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[22] 47 U.S.C. Section 272(e)(2).

[23] 141 Cong. Rec. S. 7886 (June 7, 1995).

[24] See 95 F.C.C.2d 554, para. 33.

[25] See for example 47 U.S.C. Sections 271(d)(6), 273(f), 274(e), and 208(b)(1) (shortening time for investigation of complaint to 5 months).

Our competitors' arguments for "safeguards" are anachronisms. They illustrate that if the Commission's approach appears less than deregulatory, if the Commission indicates any willingness to "fit everything into the old regulatory boxes," the revolution heralded by the 1996 amendments will grind to a halt, buried under a flurry of paper. We would not be the only losers; long distance consumers would lose the opportunity to pay lower prices.

III. Executive Order 12866 Shows the Need To Justify The Costs of Any "Safeguards" on InterLATA Services

By advocating dominant regulation of the BOCs, "stringent safeguards" or other costly new rules, our competitors are calling for nothing less than the re-regulation of the interLATA business -- as long as none of the regulations apply to themselves. This is undoubtedly not what Congress expected. The 1996 amendments were supposed to be "de-regulatory" and "open all telecommunications markets to competition."[26] BOCs were to be allowed to provide out-of-region interLATA "immediately" after passage of the amendments.[27]

The 1996 amendments are not the only law that militates against new regulations on out-of-region (or in-region) interLATA. Executive Order 12866,[28] adopted in 1993, evinces a similar concern. Executive Order 12866 ordered Federal agencies to "promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need.... In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating." Costs and benefits must be quantified "to the fullest extent [they] can be usefully estimated." Agencies are required to identify the problem they intend to address, and assess its

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[26] Conference Report, p. 1.

[27] *Id.* at p. 147.

[28] Executive Order 12866 (Sept. 30, 1993) (3 CFR 638).

significance. Then, if:

> an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulation in the most cost-effective manner to achieve the regulatory objective.... [E]ach agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public) ... Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.... Each agency shall tailor its regulations to impose the least burden on society, including individuals.[29]

When he signed the Executive Order, President Clinton promised, "We reject the 'if it moves, regulate it' approach.... This order will lighten the load for regulated industries and make Government regulations that are needed more efficient."[30] Executive Order 12866 demonstrates that the President as well as Congress has a concern for avoiding unnecessary regulation. Although executive orders are not directly binding on the Commission, we urge it to apply the analysis required by Executive Order 12866 to all proposals for new "safeguards."

Nothing would exemplify the "if it moves, regulate it" approach better than re-regulating the interstate interLATA business by subjecting the BOCs' interLATA affiliates to dominant regulation. Such measures would never pass muster under Executive Order 12866. The Commission has already recognized that dominant regulation imposes significant burdens on carriers and, more important, on competition.[31] On other occasions the

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[29] *Id.*

[30] 29 Weekly Comp. Pres. Doc. 1923 (Sept. 30, 1993).

[31] See, for example, *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, para. 27. ALTS's contention that dominant regulation would not be "overly burdensome" for the BOCs because they "have a great deal of experience" in being dominant (ALTS, p. 3), apparently intended without irony, ignores all the Act's restrictions on transferring such "experience" from the BOCs to their new affiliates. It also glosses over the principle burden of dominant regulation: its burden on *competition.*

Commission has expressed concern about the "direct monetary cost" of structural safeguards.[32] Before imposing any safeguards over and above what Congress has required, we urge the Commission to consider the alternative of *not regulating;* to consider whether a rule will be the *best available method* of achieving its objective; to *assess both the costs and the benefits* of the intended rule; to design the rule *in the most cost-effective manner to achieve the regulatory objective;* and to tailor the rule to impose the *least burden* on society.[33]

Not one of today's IXCs has the audacity to declare that "stringent safeguards" are necessary to prevent us from raising prices or reducing output in the interLATA market -- the definition of market power according to "well-accepted principles of economics and antitrust analysis."[34] If it were making the impartial, on-the-record analysis required by Executive Order 12866, the Commission could not fail to consider that the practical result of "safeguards" would be to keep those prices from *falling*. This effect on long distance consumers would defeat any cost-benefit, "least burden" justification for new "safeguards."

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[32] *Computer III Remand Proceedings*, 6 FCC Rcd 7571, para. 8 (1991). See also *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services*, 10 FCC Rcd 8360, para. 5 (1995).

[33] Executive Order 12866 (emphases added).

[34] *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, para. 139.

IV. Conclusion

The Commission has started down the road of bringing more competition and lower prices to the interstate interexchange market. It should reaffirm its holding that the separate affiliates of exchange telephone companies, including the BOCs, are nondominant in that market. When the separate affiliate requirement for in-region interLATA "sunsets," the requirement should be lifted from all interLATA services and for all LECs.

Respectfully submitted,

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